

Group II: Claim 3, drawn to a polypeptides; and

Group III: Claims 4-11, drawn to a plant or plant cell.

Applicants respectfully traverse the restriction requirement and provisionally elect the claims of Group I, claims 1-2 for further prosecution. Applicants further elect Sequence ID No. 1 (nucleic acid).

Applicants submit that the complete examination of the application would be handled most expeditiously by treating all of the pending claims as a single entity. As Section 803 of the MPEP directs, “[i]f the search and examination of an entire application can be made without serious burden, the Examiner must examine it on the merits, even though it includes claims to distinct or independent inventions.” Applicants respectfully submit that the Examiner has not shown that a search and examination of the entire application would cause a serious burden. Rather, a serious burden would arise if the application were restricted.

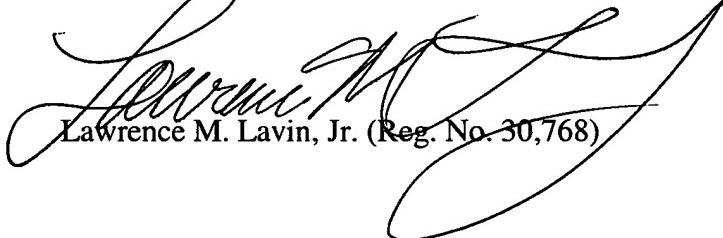
Applicants submit that the restriction requirement is inappropriate. For example, Applicants contend that, at least, Groups I and II should be examined simultaneously because they are related as nucleic acids and proteins encoded by such nucleic acids. To examine claim 1 (Group I), which is directed to nucleic acids that encode the identified proteins, requires the same search as claim 3 (Group II). Moreover, searches for claims 1 and 2 (Group I), which encompass organisms containing such sequences, should also include searches of art relating to plants (Group III). Accordingly, examination of at least Groups I and II and preferably Groups I, II and III together would pose no undue burden to the Examiner. Furthermore, Applicants submit that restriction to a single nucleotide sequence is improper, as the Office Action itself indicates that “normally ten sequences constitute a reasonable number for examination purposes” and

Applicants believe no serious burden would result by the search and examination of at least ten nucleotide sequences.

Based upon the foregoing, Applicants submit that the restriction requirement is improper and therefore should be withdrawn.

Should the Examiner have any questions regarding this application, the Examiner is encouraged to contact Applicants' undersigned representative at (314) 694-3602.

Respectfully submitted,



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